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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

8 LUX STERLING HOLDINGS, LLC, a)
9 Nevada Limited Liability Company,)
10)
11 Plaintiff,)
12)
13 vs.)
14)
15 PHILIP WHELAN, ANTHONY)
16 MANERBINO, DAWNA MANERBINO,)
17 AARON GODBOUT, and CNW, LLC, a)
18 Colorado Limited Liability Company,)
19 Defendants.)
20)
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Case No.: 2:16-cv-01240-RFB-VCF

**THIRD MOTION TO EXTEND
PLAINTIFF'S TIME TO RESPOND
TO MOTION TO DISMISS**

16 COMES NOW plaintiff Lux Sterling Holdings, LLC ("Sterling"), by and through its
17 attorney of record, Boris Avramski, Esq., and hereby files this motion pursuant to Rule
18 6(b)(A)(1) to extend by three business days Sterling's time to respond to the Motion to Dismiss
19 or Transfer Action [Doc# 12] (the "Motion to Dismiss or Transfer") filed by defendants Philip
20 Whelan, Anthony Manerbino, Dawna Manerbino, and CNW, LLC (the "Moving Defendants").

21 In support of this motion, Sterling states as follows:

22 1. The Motion to Dismiss or Transfer was filed on July 5, 2016 and Sterling's
23 response was due on August 5, 2016, as stipulated and ordered by this Court on July 27, 2016
24 [doc #15].

25 2. On August 5, 2016, Sterling filed its Second Unopposed Motion to Extend, which
26 sought to extend Sterling's response due date by additional two weeks, until August 19, 2016
27 [doc #16]. The Court has not yet ruled on that unopposed motion.

28 3. Sterling's prior motions for additional time were necessary because Sterling's

1 manager, Phil Neuman, was unavailable due to a family medical emergency, which prevented
2 Sterling's counsel from preparing a response to the Motion to Dismiss. *See, e.g.*, Second
3 Unopposed Motion to Extend (Doc #16) at ¶ 2.

4 4. On August 17, 2016, Sterling's counsel was able to speak with Mr. Neuman.
5 Although Sterling believes the Motion to Dismiss lacks merit, it has decided not to oppose
6 transfer of this action to the United States District Court for the District of Colorado (the
7 "Colorado District Court") in order to avoid unnecessary litigation costs. *See, infra*, Griffith
8 Dec. at ¶ 3.

9 5. On August 18, 2016, Sterling's counsel proposed resolving the Motion to Dismiss
10 by entering into a Stipulation and Order transferring this action to the Colorado District Court.
11 Defendants rejected that proposal because they want this Court to rule on that portion of their
12 motion seeking dismissal based on alleged lack of standing. Griffith Dec. at ¶ 4.

13 6. In light of that response and the fact that Sterling's counsel was unable to speak
14 with Mr. Neuman until August 17, 2016, Sterling requested defendants consent to a final
15 extension of Sterling's time to respond. Defendants, however, have not consented to any
16 additional extension. Griffith Dec. at ¶ 5.

17 7. Accordingly, Sterling now seeks a final extension of three business days, from
18 Friday, August 19, 2016, to Wednesday, August 24, 2016, in order to allow Sterling's counsel
19 with sufficient time to submit an opposition to that portion of the motion seeking dismissal for
20 alleged lack of standing. In light of the vacation and work schedules of Sterling's counsel, it was
21 impossible to prepare such a response by August 19, 2016, the due date requested pursuant to
22 Sterling's Second Unopposed Motion to Extend.

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CONCLUSION

The due date for Sterling to respond to the Motion to Dismiss or Transfer [Doc# 12] should be extended until August 24, 2016. A proposed Order is annexed as Exhibit A.

Dated this 19th day of August, 2016.

AVRAMSKI LAW, PC

/s/ Boris Avramski
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Of Counsel:
Edward Griffith, Esq.
THE GRIFFITH FIRM
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New York, New York 10006
(212) 363-3784
(212) 363-3790 (fax)

DECLARATION OF EDWARD GRIFFITH

EDWARD GRIFFITH declares pursuant to 28 U.S.C. 1746 as follows:

1. I am co-counsel with Boris Avramski to plaintiff Lux Sterling Holdings, LLC (“Sterling”). I made this declaration in support of Sterling’s Third Motion to Extend Plaintiff’s Time to Respond to Motion to Dismiss or Transfer Action [Doc #12].

2. Sterling’s prior motions for additional time were necessary because Sterling’s manager, Phil Neuman, was unavailable due to a family medical emergency, which prevented Mr. Avramski and me from preparing a response to the Motion to Dismiss. *See, e.g.*, Second Unopposed Motion to Extend (Doc #16) at ¶ 2.

3. On August 17, 2016, I was able to speak with Mr. Neuman. Although Sterling believes the Motion to Dismiss lacks merit, it has decided not to oppose transfer of this action to the United States District Court for the District of Colorado (the “Colorado District Court”) in order to avoid unnecessary litigation costs.

4. On August 18, 2016, Mr. Avramski proposed resolving the Motion to Dismiss by entering into a Stipulation and Order transferring this action to the Colorado District Court. Defendants rejected that proposal because they want this Court to rule on that portion of their motion seeking dismissal based on alleged lack of standing.

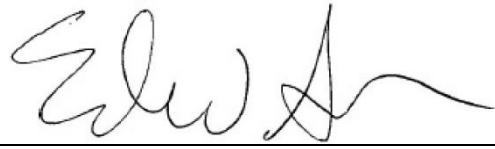
5. In light of that response and the fact that I was unable to speak with Mr. Neuman until August 17, 2016, Mr. Avramski requested defendants consent to a final extension of Sterling’s time to respond. Defendants, however, have not consented to any additional extension.

6. Accordingly, Sterling now seeks a final extension of three business days, from Friday, August 19, 2016, to Wednesday, August 24, 2016, in order to allow Mr. Avramski and me sufficient time to submit an opposition to that portion of the motion seeking to dismiss for lack of standing. In light of Mr. Avramski’s and my vacation and work schedules, it was impossible for us to prepare such a response by August 19, 2016, the due date requested pursuant to Sterling’s Second Unopposed Motion to Extend.

7. Therefore, I respectfully request the Court extend Sterling’s deadline to respond

1 to the Motion to Dismiss or Transfer Action [Doc #12] from August 5, 2016 to August 24, 2016.

2 Executed on August 19, 2016
3 New York, New York

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6 EDWARD GRIFFITH
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CERTIFICATE OF SERVICE

I, Boris Avramski, Esq., hereby certify that on August 19, 2016, I served the foregoing
SECOND UNOPPOSED MOTION TO EXTEND PLAINTIFF'S TIME TO RESPOND
TO MOTION TO DISMISS by the following means to the persons listed below:

 X ECF System to:

Richard T Cunningham
Richard Cunningham Law
Email: rick@rcunninghamlaw.com
Attorney for Defendants

I declare under penalty of perjury that the foregoing is true and correct.

Dates this 19th day of August, 2016.

/s/Boris Avramski
Boris Avramski, Esq.

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11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 LUX STERLING HOLDINGS, LLC, a)
14 Nevada Limited Liability Company,)
15 Plaintiff,)

Case No.: 2:16-cv-01240-RFB-VCF

16 vs.)

**ORDER EXTENDING
PLAINTIFFS' TIME TO RESPOND
TO MOTION TO DISMISS UNTIL
AUGUST 24, 2016**

17 PHILIP WHELAN, ANTHONY)
18 MANERBINO, DAWNA MANERBINO,)
19 AARON GODBOUT, and CNW, LLC, a)
20 Colorado Limited Liability Company,)
21 Defendants.)

22 Upon plaintiff's Second Unopposed Motion to Extend Plaintiff's Time to Respond to
23 Motion to Dismiss [Doc #16] and plaintiff's Third Motion to Extend Plaintiff's Time to Respond
24 to Motion to Dismiss [Doc #17], and in light of the Moving Defendants' consent to the Second
25 Unopposed Motion; and for good shown, it is

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HEREBY ORDERED that the due date for Sterling's response to the Motion to Dismiss
or Transfer Action [Doc# 12] is hereby extended from August 19, 2016, to August 24, 2016.

Dated: September 9, 2016.



Hon. Richard F. Boulware, II,
District Court Judge